

REMARKS

Claims 1 and 3-18 are pending in the application, claims being canceled and claims 17 and 18 being newly added herein. Claims 1, 17, and 18 are the only independent claims.

Claims Rejections - 35 U.S.C. §§ 102 and 103

Claims 1, 2, and 16 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,130,950 to Bazzle et al.

Claims 1, 2, and 16 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,771,556 to Kim.

Claims 1-16 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,875,568 to Lennihan, Jr. in view of U.S. Patent No. 4,854,057 to Misevich et al.

Claims 1-16 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Application Publication No. 2004/0159022 by Winford et al. in view of Misevich et al.

In response to the rejection of the claims under § 102(b) and § 103(a) of the Patent Statute, applicant has amended claim 1 herein and added new independent claims 17 and 18 so drafted as to better distinguish the invention over the cited prior art.

The Invention Applicant's invention, as described in the specification, is directed to a shoe having a spinner element that freely rotates, in the manner of a spinning wheel or a spinner of a conventional board game. Such a spinner is loosely mounted on a pin, for unconstrained rotation about the pin. A freely rotating spinner on a shoe, pursuant to applicant's invention, may be made to rotate by natural movement of

the shoe during walking or running or by a torque briefly or temporarily applied by a finger or other extraneous object, as in a board game spinner.

The Prior Art The prior art references relied on by the Examiner do not teach or suggest applicant's invention. The prior art discloses various disk-shaped elements attached to shoes. However, the disk shaped elements are not attached for free or unconstrained rotation in the manner of a spinning wheel or a spinner of a conventional board game. The disk-shaped elements of the prior art are not loosely attached to the shoes. Rather, the disk shaped elements are so constrained as to prevent free rotation, such rotation being evidenced, for instance, upon natural movement of the shoe during walking or running or upon brief or temporary application of a torque by a finger or other extraneous object (as in a board game spinner).

U.S. Patent No. 4,130,950 to Bazzle et al. discloses a golf shoe with a disk-shaped position marker (23) that is magnetically attached to the shoe via a permanent magnet in turn fixed to the shoe. The disk is constrained against free rotation by magnetic and frictional forces.

U.S. Patent No. 4,771,556 to Kim describes a shoe with a circular or disk-shaped speaker (3) attached to a midsole or periphery of an outsole. Music is reproduced via the speaker when a shoe closure band (B) is moved towards an open position. The speaker is certainly not mounted for free rotation. Wires (11) are connected to the speaker and will necessarily prevent free rotation or spinning thereof thereof.

U.S. Patent No. 5,875,568 to Lennihan, Jr. teaches a running shoe provided in a heel area with a shock-absorbing insert (20) including a hub 922) and radial ribs (35). The insert can be incrementally rotated or indexed by a user through an angle of 15° to

30° every time the user puts on the shoe. “This would eliminate repeated pounding on exactly the same spot; thereby extending the life of the cushioning.” (See col. 3, lines 1-28, and col. 4, lines 35-44.) Obviously, Lennihan, Jr. teaches away from having a cushioning or shock absorbing element that is loosely attached to the shoe so as to be freely or spinningly rotatable.

U.S. Patent No. 4,854,057 to Misevich et al. does not disclose or suggest a disk-shaped element and has been cited by the Examiner for other reasons.

U.S. Patent Application Publication No. 2004/0159022 by Winford et al. depicts a shoe with a pair of remotely controlled wheels or disks (50a, 50b) disposed along side walls of the shoe. The wheels or disks are connected to a remote controlled motorized rotating assembly (30) including a motor 932), a battery (34) and front and rear gear and axle assemblies (36a, 36b). Thus, the wheels or disks (50a, 50b) are not freely rotatable but are rather constrained by the drive or gear train (36a, 36b). Rotation is effectuated by activating the motor, not by motion of the shoe or by a torque temporarily applied to the wheels or disks (50a, 50b).

Claim 1 According to amended claim 1, a shoe comprises an upper, a midsole coupled to the upper, an outsole fastened to the midsole, and a spinner element rotatably mounted to at least one of the upper and the midsole, for free rotation in a plane of rotation substantially parallel to the one of the upper and the midsole at a point of attachment of the spinner element to the one of the upper and the midsole.

As discussed above, none of the references of record teaches or suggests a spinner element rotatably mounted to a shoe upper or midsole for free rotation. The disks of the prior art are all constrained against free rotation.

Claim 17 As recited in new independent claim 17, a shoe comprises an upper and an outsole fastened at least indirectly to the upper, a spinner element being mounted to the shoe so as to freely rotate in response to shoe movement or in response to a temporarily applied torque.

As observed above, none of the references of record teaches or suggests a spinner element mounted to a shoe so as to freely rotate in response to shoe movement or in response to a temporarily applied torque. If there is any rotary motion of a prior art disk or wheel, that motion requires constant application of an external torque. The prior art disks or wheels do not spin or freely rotate.

Claim 18 As set forth in applicant's new claim 18, a shoe comprises an upper, an outsole fastened at least indirectly to the upper, and a pin, a spinner element being loosely mounted to the shoe via the pin, for free or unconstrained rotation about the pin.

As indicated above, none of the references of record teaches or suggests a spinner element loosely mounted to a shoe via a pin, for free or unconstrained rotation about the pin. In each prior art shoe, a wheel or disk is fixed or otherwise constrained, not loosely mounted so as to provide for free or unconstrained rotation about a pin.

Applicant has amended the specification to provide antecedent support for the language used in new claims 17 and 18. The new language does not constitute new matter, as the new language is an alternative description of the spinner element as disclosed in the original application.

The claim amendments, if any, made herein are made without prejudice to applicants' right to pursue additional subject matter in a separate continuation or divisional application.

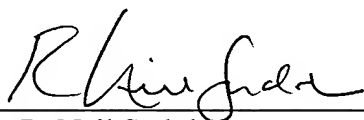
Conclusion

For the foregoing reasons, independent claims 1, 17, and 18, as well as the claims dependent from claim 1, are deemed to be in condition for allowance. An early Notice to that effect is earnestly solicited.

Should the Examiner believe that direct contact with applicant's attorney would advance the prosecution of this application, the Examiner is invited to telephone the undersigned at the number below.

Respectfully submitted,

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